

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AUSTRALASIA CHARTERERS LTD.,

Plaintiff,

v.

WORLDWIDE BULK SHIPPING PTE
LTD.,

Defendant,

and

WORLDWIDE LOGISTICS CO. LTD.,
CARGILL, INCORPORATED,

Garnishees.

IN ADMIRALTY

CASE NO. C21-98 RSM

ORDER

This matter is before the Court on Plaintiff's Renewed Motion and Supporting Memorandum for Issue of Process of Maritime Attachment and Garnishment. Dkt. #15. The Court previously denied Plaintiff's motion seeking the issuance of writs of attachment and garnishment because Plaintiff failed to establish that the garnishees possessed property belonging to Defendant. Dkt. #10. Plaintiff has filed an amended, verified complaint, Dkt. #14, and maintains that the additional allegations have cured the deficiencies previously identified by the Court. Dkt. #15. Having reviewed the matter, the Court agrees and grants the motion in part.

1 The Court set forth the relevant background and legal standard in its previous order:

2 The underlying dispute in this action arises from Defendant Worldwide
 3 Bulk Shipping Pte Ltd. (“WBS”) chartering a vessel owned by Plaintiff
 4 Australasia Charterers Ltd. to move coal from the East Coast of Australia to
 5 China. Dkt. #1 at ¶ 6. The parties initially anticipated that the voyage would take
 6 20-25 days. *Id.* at ¶ 7. WBS took possession of the vessel, loaded it with coal,
 7 and made the voyage from Australia and arrived offshore of “Caofeidian, China,
 8 ready to discharge operations on” June 29, 2020. *Id.* at ¶ 8. However, the vessel
 9 has remained idle since without a berth to offload the coal, a state that is likely to
 10 continue as China has halted the import of coal from Australia. *Id.* at ¶¶ 9–10.
 11 Plaintiff alleges that WBS’s continued possession of the vessel violates their
 12 charter agreement in several regards and seeks a recovery of \$5,246,619. Dkt. #1
 13 at p.7 (Prayer for Relief). The parties appear to have entered into arbitration in
 14 London and Plaintiff seeks attachment to property as security for its claims in
 15 arbitration. *Id.*

16 [Rule B of the Federal Rule of Civil Procedure’s Supplemental Rules for
 17 Admiralty or Maritime Claims and Asset Forfeiture Actions] permits a party to
 18 seek “process to attach the defendant’s tangible or intangible personal property—
 19 up to the amount sued for—in the hands of garnishees named in the process.”
 20 FED. R. CIV. P. SUPP. AMC Rule B. A Rule B writ should issue where “(1)
 21 Plaintiff has a valid prima facie admiralty claim against the defendant; (2)
 22 defendant cannot be found within the district; (3) property of the defendant can
 23 be found within the district; and (4) there is no statutory or maritime law bar to
 24 the attachment.” *Equatorial Marine Fuel Mgmt. Servs. Pte Ltd. v. MISC Berhad*,
 591 F.3d 1208, 1210 (9th Cir. 2010) (citing *Aqua Stoli Shipping Ltd. v. Gardner
 Smith Pty. Ltd.*, 460 F.3d 434, 445 (2d Cir. 2006), *overruled on other grounds by
 Shipping Corp. of India Ltd. v. Jaldhi Overseas Pte Ltd.*, 585 F.3d 58, 61 (2d Cir.
 2009) (mini en banc)); FED. R. CIV. P., Supp. R. B).

17 Dkt. #10 at 2.

18 As the Court previously found, Plaintiff has stated a prima facie admiralty claim,
 19 established that Defendant cannot be found within the district, and has not identified any statutory
 20 or maritime law bar to the attachment. *Id.* at 3. Here, in order to satisfy the third element,
 21 Plaintiff has added allegations establishing that Cargill Incorporated (“Cargill”) maintains
 22 operations, and presumably agents, in the District and that Worldwide Logistics Co. Ltd.
 23 (“Worldwide Logistics”) has an agent within the District. Dkt. #14 at ¶ 14, 11. Further, Plaintiff
 24 establishes each entity’s business relationship with Defendant. Plaintiff alleges that Cargill is a

1 significant customer of Defendant's, and that Defendant aids Cargill in moving "bulk
2 commodities into China." *Id.* at 12–13. As to Worldwide Logistics, Plaintiff alleges that it is
3 affiliated with Defendant in the Worldwide Logistics Group and that Worldwide Logistics serves
4 as a freight forwarding affiliate for Defendant, arranging for bulk cargo to be transferred by
5 Defendant. *Id.* at ¶¶ 8–9. Utilizing Defendant's services, Plaintiff plausibly alleges that each
6 entity holds accounts owing to Defendant. *Id.* at ¶¶ 11, 14. The allegations of the amended,
7 verified complaint are sufficient at this stage to approve issue of process.

8 The Court does, however, wish to clarify that substantial questions remain as to Plaintiff's
9 allegations, but that the Court finds it inappropriate to address those questions at this time.
10 Plaintiff's allegations may stop short of establishing that it may attach to Defendant's property
11 held by Worldwide Logistics within this District. Worldwide Logistics does not appear to be
12 registered to conduct business within Washington. *C.f.* Dkt. #14-6 (Plaintiff providing proof that
13 Cargill is registered to conduct business in Washington). Rather, Plaintiff relies on the presence
14 of a Worldwide Logistics agent located within the District. Dkt. #14 at ¶ 11. But Plaintiff
15 provides only a LinkedIn profile for the individual, indicating that she works as Worldwide
16 Logistics' "U.S. Representative" and "set[s] up prospective U.S. Agent Partners" and
17 "[o]versees the US support center to support WWL agents to ensure they get the best rates and
18 that accounts are onboard[ed] smoothly." Dkt. #14-4.

19 The Court holds some trepidation as to whether process can be served upon such an agent
20 and whether Worldwide Logistics' accounts can truly be said to exist within the District.
21 However, the Court notes that its authorization of process under Rule B does not extend to such
22 inquiries and that those issues may be properly addressed in the context of a possible motion to
23 vacate attachment under Rule E(4)(f) or an action for wrongful attachment. Further, Plaintiff is
24 specifically not required to specify all possible garnishees in seeking authorization for issuance

1 of process. Rule B(1)(a)–(b) (judicial review authorizes issuance of process of attachment and
2 garnishment and thereafter clerk may issue supplemental process as to other of defendant’s
3 property within the district). Accordingly, the Court relies primarily on Plaintiff’s more straight-
4 forward allegations establishing that Cargill plausibly possesses accounts owing to Defendant
5 within this District.

6 Lastly, the Court grants Plaintiff’s motion only in part. Plaintiff seeks an order providing
7 that process of maritime attachment and garnishment may be served via “facsimile transmission
8 or other verifiable electronic means, including e-mail, to the garnishee.” Dkt. #15-5 at 3.
9 Plaintiff does not provide authority supporting the request for alternative service and the Court
10 does not find a deviation from the normal expectations associated with “service” to be
11 appropriate. *See Nueva Seas AS v. USD 179,092 by Truist Bank*, Case No. 20-cv-3495 (RCL),
12 2020 WL 7078823, at *1 (D.D.C. Dec. 3, 2020).

13 Accordingly, and having considered Plaintiff’s motion and the remainder of the record,
14 the Court finds and ORDERS:

- 15 1. Plaintiff’s Renewed Motion and Supporting Memorandum for Issue of Process of
16 Maritime Attachment and Garnishment (Dkt. #15) is GRANTED in part.
- 17 2. The Clerk of this Court is AUTHORIZED to issue Process of Maritime Attachment and
18 Garnishment against all assets, bunkers, cash, funds, credits, wire transfers, accounts,
19 letters of credit, electronic fund transfers, freights, sub-freights, charter hire, sub-charter
20 hire, or any other tangible and/or intangible assets belonging to, due, claimed by, being
21 held for or on behalf of, or being transferred for the benefit of Defendant, including, but
22 not limited to any such assets as may be in the possession, custody or control of, or being
23 transferred through any garnishee within this District, including, without limitation, assets
24 held by or at Garnishees, said Order being equally applicable with respect to the issuance

1 and service of additional Writs of Maritime Attachment and Garnishment upon any
2 garnishees in this district not named herein, in an amount up to and including the amount
3 prayed for in the First Amended Verified Complaint and any amendment thereto,
4 pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims
5 of the Federal Rules of Civil Procedure.

6 3. Any person claiming an interest in the property attached or garnished pursuant to said
7 Order shall, upon application to the Court, be entitled to a prompt hearing at which the
8 Plaintiff shall be required to show why the garnishment should not be vacated or other
9 relief granted.

10 4. Supplemental process enforcing the Court's Order may be issued by the Clerk upon
11 application without further order of the Court.

12 5. Service on any garnishee as described above is deemed continuous throughout the day
13 from the time of such service through the opening of the garnishee's business the next
14 business day.

15 6. Pursuant to Federal Rule of Civil Procedure 5(b)(2)(D) each garnishee may consent, in
16 writing, to accept service by any other means.

17 7. A copy of this Order shall be attached to and served with the Process of Maritime
18 Attachment and Garnishment.

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1 8. To afford an opportunity for an expeditious hearing of any objections which might be
2 raised by Defendant, or any garnishee, a hearing may be set by calling Courtroom Clerk
3 Laurie Cuaresma at (206) 370-8521.

4 DATED this 8th day of March, 2021.

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8 RICARDO S. MARTINEZ
9 CHIEF UNITED STATES DISTRICT JUDGE
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